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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 JAYAKRISHNAN K. NAIR, et al.,

11 Plaintiffs,

12 v.

13 CHANNA COPELAND, et al.,

14 Defendants.

CASE NO. C19-1296 MJP

ORDER DENYING MOTION FOR  
*EX PARTE* TEMPORARY  
RESTRAINING ORDER

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16 The Court is in receipt of Plaintiffs' Application for Ex Parte TRO (Dkt. No. 40). Having  
17 reviewed the briefing, all related exhibits and declarations<sup>1</sup>, and relevant portions of the record,  
18 the Court rules as follows:

19 IT IS ORDERED that the request for an *ex parte* TRO is DENIED.  
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24 <sup>1</sup> As this order was being prepared, Plaintiff Jayakrishnan Nair filed a new declaration with attached exhibits (Dkt. Nos. 45 and 45-1) – that filing is addressed in the body of this order.

1       **Discussion**

2       The Court considers four factors in examining Plaintiffs' request for a TRO: (1)  
3       likelihood of success on the merits, (2) likelihood of irreparable harm, (3) the balance of equities,  
4       and (4) the public interest. Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).  
5       Mandatory injunctions, requiring an affirmative act from the nonmoving party rather than a  
6       cessation of conduct, present substantial challenges for the Court and the parties, and should be  
7       denied unless the facts and the law clearly favor the moving party. Stanley v. Univ. of S.  
8       California, 13 F.3d 1313, 1320 (9th Cir. 1994).

9       This is Plaintiffs' third attempt to obtain an *ex parte* restraining order against Defendants.  
10      As in previous attempts, they seek mandatory (as opposed to prohibitive) relief. The standard for  
11      such relief is extraordinarily high; as in their previous attempts, Plaintiffs fall far short of the  
12      required levels of proof.

13      Plaintiffs' requested relief takes several forms; they seek:

- 14      1. Authorization to make travel arrangements to return Omana Thankamma back to  
15      India;
- 16      2. An order prohibiting Defendants Copeland, Harborview and the Department of Social  
17      and Health Services ("DSHS") from interfering with family visits with Omana  
18      Thankamma;
- 19      3. A return of "[a]ny and all assets marshalled from Plaintiffs" by Defendants;
- 20      4. Rescission of a King County Superior Court judgment assessing attorney fees against  
21      Plaintiffs.

22      Dkt. No. 42, Proposed Order at 1.

1       The first three requests seek intervention by this Court in the ongoing guardianship  
2 proceeding concerning Omana Thankamma in King County. As this Court has made clear  
3 previously (*see* Dkt. No. 29, Order on Motion to Terminate Guardianship), Plaintiffs have not  
4 established adequate grounds for the intervention of a federal court in an ongoing state court  
5 proceeding. Additionally, it appears from the record that the parties in the state court  
6 proceedings have been directed to collaborate in the repatriation of Omana Thankamma; the  
7 intervention of an additional authority in that process is doubly unwarranted.

8       In a late-breaking development, following the filing of this third *ex parte* application for  
9 TRO, Plaintiff Jayakrishnan Nair filed an “Emergency Declaration” with attached exhibits  
10 indicating that his mother had recently been admitted to the ICU at Harborview. (Dkt. No. 45.)  
11 Although the Court regrets this unfortunate turn of events, it does not change the analysis above  
12 or alter the impropriety of this federal court interfering in an ongoing state proceeding. The  
13 Court notes that, in reading the letter from the Guardian’s attorney (Dkt. No. 45-1, Exhibit A), it  
14 is apparent that Plaintiffs have it within their power (by following the state court orders and  
15 cooperating with the DSHS authorities, the Guardian, and their representatives) to accomplish  
16 much of what they are seeking from this Court; namely, an opportunity to visit with Ms.  
17 Thankamma and achieve her relocation to her native land.

18       Finally, on the issue of rescinding the state court order on attorney fees, that request  
19 appears to be founded on a misunderstanding of this Court’s order denying Defendant  
20 Copeland’s request for attorney fees. Dkt. No. 33. The order from this Court concerned a  
21 request for attorney fees in Plaintiffs’ federal matters only; the order had no application to any  
22 attorney fees (or attorney fee requests) generated by the state court proceedings. It is apparent  
23 from the exhibits submitted by Plaintiffs that they have been ordered to pay separate attorney  
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1 fees arising out of the state court actions. That order is entirely distinct from this Court's order  
2 concerning the federal proceedings, and this Court will make no ruling regarding the state court's  
3 attorney fees order.

4 **Conclusion**

5 Plaintiffs have failed to satisfy the foundational requirements for a TRO, and certainly  
6 have not met the higher burden of proof applicable to requests for mandatory injunctive relief.  
7 Their *ex parte* application for this extraordinary equitable relief is therefore DENIED.

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9 The clerk is ordered to provide copies of this order to Plaintiffs and to all counsel.

10 Dated December 31, 2019.

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12 Marsha J. Pechman  
13 United States Senior District Judge  
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